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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,046	10/31/2006	Gustav Strobel	06-387	9279
34704 7590 07/29/2010 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510				
EXAMINER				
RODDEN, JOSHUA E				
ART UNIT		PAPER NUMBER		
3637				
MAIL DATE		DELIVERY MODE		
07/20/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/582,046

**Applicant(s)**

STROBEL, GUSTAV

**Examiner**

Joshua Rodden

**Art Unit**

3637

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12, 13, 15, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12, 13, 15, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/07/10 has been entered.

Claims 1-11, 14, 16-19 and 22 are cancelled. Claims 12, 15, 20 and 21 have been amended.

### ***Specification***

2. The disclosure is objected to because of the following informalities:
- Paragraph [0010], Line 1, the phrase "The latch is preferably to be in single-piece form, for example is to be composed" should be "The latch is preferably in single-piece form, for example, it is to be composed"
  - Paragraph [0025], Line 3, the phrase "or else vertical" should be "or vertical"
  - Paragraph [0025], Line 8, the phrase "figure 6" should be "Figure 6"
  - Paragraph [0025], Line 11, the phrase "thickness s in" should be "thickness in"
  - Paragraph [0028], Line 11, the phrase "small rail 20" should be "small rail 12"

- Paragraph [0035], Line 11, the phrase "figure 3" should be "Figure 3"

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 12, 13, 15, 20 and 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 12 recites "wherein at least two adjacent pins (7) maintain a distance from each other which is greater than and substantially the same as the material thickness (s) of the latch (6) in the region of the pin holder (8) such that it is not possible for the pin (7) to slip out of the pin holder (8) while the pivotability of the latch (6) about the pin (7) is ensured." However, this does not appear to be enabled. For example, how does the distance between the pins and the latches make it "such that it is not possible for the pin (7) to slip out of the pin holder (8)"? The specification clearly states that "the respective pins 7 are placed through corresponding bores in the side wall 2, with them engaging in blind hole bores in the side wall 1 (See Paragraph [0032])." Therefore, it

appears that the pins (7) are clearly capable of being removed from the pin holders (8) and the latches (6).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. **Claims 12, 13, 15, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1,340,697 (Weidner) in view of U.S. Patent No. 6,234,743 (Strobel).**

Regarding **Claims 12, Weidner** teaches: **Claim 12** – a stacking column comprising two side walls (2) and a plurality of latches (21.1-21.3) arranged between the side walls (2), wherein each latch (21.1-21.3) is on a pin (5.1-5.3) which allows for rotation between a rest position into a working position, (Figures 1-4); each latch (21.1-21.3) is provided with a pin holder having an arcuate inner surface (hole in bottoms of

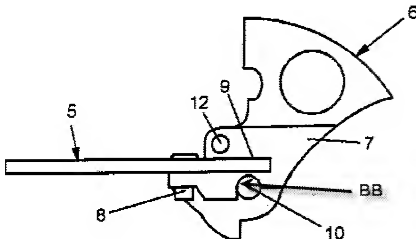
side walls (10.1-10.3)) which surrounds (and therefore meets the claim limitation in regards to “partially surrounds”) a corresponding pin (5.1-5.3), (Figures 1-4); wherein at least two adjacent pins (5.1-5.3) maintain a distance from each other which is greater than the material thickness of the latch in the region of the pin holder (hole in bottoms of bottom of side walls (10.1-10.3)), such that it is not possible for the pins (5.1-5.3) to slip out of the pin holders (10.1-10.3) while the pivotability of the latches (21.1-21.3) are ensured, (Figures 1-4); **Claim 15** – wherein the latches (21.1-21.3) are of a single-piece design, (Figures 1-4).

**Weidner** does not teach wherein at least two pins maintain a distance from each other which is “greater than and substantially the same” as a material thickness of the latch in the region of the pin holder such that it is not possible for the pin to slip out of the pin holder while the pivotability of the latch about the pin is ensured (**Claim 12**).

However, **Strobel** teaches: **Claim 12** - a stacking column comprising two side walls (2 and 3), and a plurality of latches (4.1 and 4.2) arranged between the side walls (2 and 3), wherein each latch (4.1 and 4.2) is on a pin (11.1 and 11.2) which allows for rotation of the latches (4.1 and 4.2) between a rest position and a working position (See the “BACKGROUND OF THE INVENTION” section of the specification), (Figures 1-3); wherein the bottom portion of the latch has hole (10) for engaging the pin (11.1 and 11.2) and additionally has an arcuate surface (BB) which only partially surrounds the circumferential surface of the pin (11.1 and 11.2), (Figures 1-4 and Annotated Figure 4 Below); wherein at least two pins (11.1 and 11.2) maintain a distance from each other which is greater than and substantially the same as a material thickness of the latch (4.1

or 4.2) in the region of the pin holder (10 and BB) such that it is not possible for the pin to slip out of the pin holder while the pivotability of the latch about the pin is ensured, wherein it should be understood that the latches could not be removed as the latches (4.1 and 4.2) have the hole (10) which engages the pin (11.1 and 11.2), (Figure 1 and Annotated Figure 4 below).

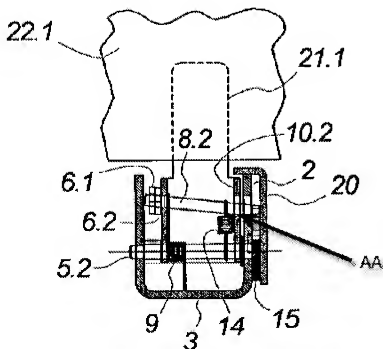
Therefore, it would have been obvious to one of ordinary skill in the art to modify the latches and pins of **Weidner** to have wherein at least two pins maintain a distance from each other which is greater than and substantially the same as a material thickness of the latch in the region of the pin holder such that it is not possible for the pin to slip out of the pin holder while the pivotability of the latch about the pin is ensured (**Claim 12**) as taught by **Strobel** for the purposes of having latches which can be located closer to one another for holding smaller objects.



Annotated Figure 4. (Strobel)

Regarding **Claims 13, 20 and 21**, **Weidner as modified by Strobel** teaches the stacking column as described above, in addition to **Weidner** teaching: **Claim 13** -

wherein the latches (21.1-21.3) are assigned a locking device (6.1-6.3, 8.1-8.3, 12.1-12.3 and 13.1-13.3) which fixes at least some of the latches (21.1-21.3) in the working position, (Figures 1-4); **Claim 20** – wherein a stop lug (8.2) projects from the upper part of the latch (21.1) to stop the latch (21.1) from rotating to far in a given direction, (Figure 3); **Claim 21** – wherein the locking device (8.1-8.3) moves (up and down) in the cutout (upper and lower portions of hole (AA)) by means of a small rail (8.2), (Figures 1-4 and Annotated Figure 3 Below).



Annotated Figure 3 (Weidner)

***Response to Arguments***

8. Applicant's arguments filed 06/07/10 have been fully considered but they are not persuasive.

9. The applicant argues:

*"This paragraph sets forth the novel structure which allows for the advantages set forth in paragraph [0007] above. This subject matter which was claimed in previously submitted dependent claim 14 has now been inserted into independent claim 12."*

However, in regards to the newly submitted claim language found in claim 12, the Examiner directs applicants attention to the 112, 1<sup>st</sup> paragraph rejection and the prior art rejection as are both stated above.

10. The applicant argues:

*"All three documents (Weidner, Scholler and Strobel) teach essentially the same principle of mounting a latch onto a pivot pin by accommodating the pivot pin in a bore hole which completely surrounds the pivot pin. In contradiction to that, the invention uses a completely different principle wherein an arcuate inner surface only partially surrounds the pin."*

However, the Examiner disagrees. **Weidner** certainly teaches that the pin holder has an arcuate inner surface (hole in bottoms of side walls (10.1-10.3)) which "surrounds" a corresponding pin (5.1-5.3), and as the pin holder surrounds the pin, it certainly meets the claim limitation of "which partially surrounds" as it is currently recited, (See Figures 1-4 of Weidner). Additionally, **Strobel** certainly does teach the

latches having a bottom portion teaching both a bore hole (10) AND an arcuate inner surface (BB as seen in Annotated Figure 3 Above and seen in Figures 1a, 1b, 2a and 2b) which both contact the pins (11.1 and 11.2), (See Figures 1-3) with each latch having an arcuate inner surface that only partially surrounds the circumferential surface of the pin. Finally, Applicants arguments directed towards Scholler are moot as Scholler was not present in any rejection in the Final Office action mailed on 03/05/10.

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Josh Rodden whose telephone number is (571) 270-5222. The examiner can normally be reached on M-Th 7am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell Jayne can be reached on (571) 272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Michael Safavi/  
Primary Examiner, Art Unit 3637

/Joshua Rodden/  
Art unit: 3637